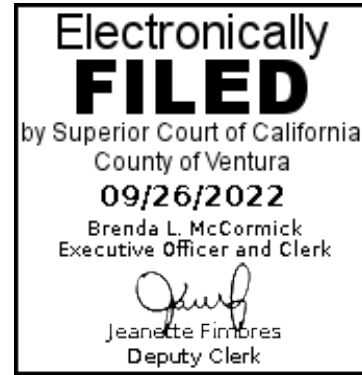


EXHIBIT A

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 Humberto Perez



SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF VENTURA

HUMBERTO PEREZ, an individual,

Plaintiff,

v.

RYDER TRANSPORTATION SOLUTIONS,
 LLC, a limited liability company; and DOES 1
 through 25, inclusive,

Defendants.

Case No. 56-2022-00570401-CU-OE-VTA

**VERIFIED COMPLAINT FOR
 DAMAGES:**

1. **DISABILITY DISCRIMINATION
 IN VIOLATION OF FEHA –
 GOVERNMENT CODE § 12940, ET
 SEQ.**
2. **FAILURE TO REASONABLY
 ACCOMMODATE A DISABILITY
 IN VIOLATION OF FEHA –
 GOVERNMENT CODE § 12940, ET
 SEQ.**
3. **FAILURE TO ENGAGE IN A
 GOOD FAITH INTERACTIVE
 PROCESS IN VIOLATION OF
 FEHA – GOVERNMENT CODE §
 12940, ET SEQ.**
4. **RETALIATION IN VIOLATION
 OF FEHA – GOVERNMENT CODE
 § 12940, ET SEQ.**
5. **FAILURE TO PREVENT
 DISCRIMINATION AND
 RETALIATION IN VIOLATION
 OF FEHA – GOVERNMENT CODE
 § 12940, ET SEQ.**

6. **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
7. **DECLARATORY AND INJUNCTIVE RELIEF PURSUANT TO CODE OF CIVIL PROCEDURE § 1060; GOVERNMENT CODE §§ 12920 and 12920.5, ET SEQ.**

[DEMAND FOR JURY TRIAL]

Plaintiff Humberto Perez alleges as follows on knowledge as to himself and his own acts, and on information and belief as to all other matters:

I.

PARTIES

1. Plaintiff Humberto Perez (“Perez” or “Plaintiff”) is an individual who was employed by Defendant Ryder Transportation Solutions, LLC (“RTS”). Perez is, and at all times mentioned herein was, a resident of the County of Ventura, State of California.

2. RTS is, and at all times mentioned herein was, a limited liability company registered in the State of California conducting business in the County of Ventura.

3. Perez is ignorant of the true names and capacities of Defendants sued herein as DOES 1-25, inclusive, and therefore sues these Defendants by such fictitious names. Perez will amend this complaint to allege the true names and capacities of said Defendants when the same has been ascertained. Each of the fictitiously named Defendants is responsible in some manner for the acts complained of herein. Unless otherwise stated, all references to any named Defendant shall include the Doe Defendants as well.

4. Each business entity of RTS, and/or Doe Defendants 1-25, whether corporate, partnership, joint venture, unincorporated association, public entity, or other business entity of unknown form, and whether named or sued by fictitious name, is, and at all times mentioned herein was, in some manner involved in the ownership and/or operation of RTS herein. Each of the individual defendants, whether named or sued by fictitious name, whether acting in an individual capacity within or without his/her capacity as managerial agent, servant, employee,

officer, director, partner, or joint venture of each of the business entity defendants aforementioned, in committing the acts or omissions as alleged herein which resulted in damage to Perez, is and at all times mentioned herein was, also in some manner involved in the ownership and/or operation of RTS , and in doing the things herein alleged was acting with the permission and consent and/or knowledge, authorization or ratification of each of the business entity defendants mentioned above, unless otherwise stated herein.

II.

FACTUAL ALLEGATIONS

5. Perez worked for RTS as a driver from September 2018 until his unlawful termination on May 31, 2022.

6. As a driver for RTS, Perez's job responsibilities included, but were not limited to:

- a. Driving to the yard to get the work vehicle;
- b. Conducting pre-trip inspections;
- c. Delivering new products;
- d. Removing older products;
- e. Driving the older products back to the yard;
- f. Unloading the older products;
- g. Re-loading the vehicle with new products; and,
- h. Conducting post-trip inspections.

7. From September 2018 until February 26, 2021, Perez had no negative work-related issues, and had not received any disciplinary actions or write-ups.

8. On February 26, 2021, Perez injured his left shoulder while working for RTS.

9. Perez reported the injury, went out on a medical leave, and obtained appropriate medical treatment.

10. In June 2021, Perez returned to work without any work restrictions from his left shoulder injury.

11. From June 2021 until May 6, 2022, Perez had no negative work-related issues, and had not received any disciplinary actions or write-ups.

12. On May 6, 2022, Perez returned to the RCS yard with Marcus Leon ("Leon"), his coworker with whom Perez shared a work truck and all daily job duties and responsibilities, and had to wait two (2) or three (3) hours to re-load the truck because the new products were not ready to re-load the truck. After re-loading the truck, Perez and Leon both clocked out at the same time.

13. On approximately May 9 or 10, 2022, Josefina Carrillo ("Carrillo"), Perez's supervisor at RTS, asked him why he had not clocked out more promptly after returning to the yard on May 6, 2022. Perez told Carrillo that the delay was caused because the next day's load was not ready when they arrived, and they had to wait on the load to be prepared before re-loading the truck. Carrillo said he would have to turn the issue over to the Human Resources Department and they would discuss it further. Perez followed up and sent Carrillo the time sheets for himself and Leon for May 6, 2022 to show their time records were the same.

14. Attached hereto as **Exhibit "A"** is a true and correct copy of Perez's May 6, 2022 Time Record.

15. Attached hereto as **Exhibit "B"** is a true and correct copy of Leon's May 6, 2022 Time Record.

16. From approximately May 9 or 10, 2022 until Perez's unlawful termination on May 31, 2022, no one from RTS followed up with Perez to discuss May 6, 2022.

17. On May 17, 2022, Perez injured his right knee and left Achilles tendon while working for RTS.

18. Perez reported his second workplace injury to Carrillo. Perez was medically evaluated and placed on a light duty work restriction. Thereafter, Carrillo told Perez to stay home until she found a light duty job posting for him.

19. Attached hereto as **Exhibit "C"** is a true and correct copy of Perez's May 17, 2022 Medical Evaluation.

20. Attached hereto as **Exhibit "D"** is a true and correct copy of Perez's May 17, 2022 Work Restriction.

21. On May 31, 2022, while Perez was still at home waiting for a light duty job posting, Perez was unlawfully terminated from his employment. Carrillo called Perez around 9:00 a.m. and told him he was terminated for falsifying his time records on May 6, 2022.

22. Carrillo's accusation was knowingly false.

23. At the time of his termination, Perez was being paid \$22.00 per hour and receiving health, vision, dental, and retirement benefits.

24. The stated reason for Perez's termination was illegal pretext. Perez was terminated in whole, or in part, because he suffered from a known disability, and/or because he requested reasonable accommodations, and/or because he opposed practices forbidden under FEHA.

25. Leon who worked the exact same time on May 6, 2022 as Perez was not terminated. The only difference between Leon and Perez is that Perez suffered from known physical disabilities and had requested multiple reasonable accommodations – Leon had not.

26. As a result of RTS' s unlawful conduct, as set forth in this Verified Complaint, Plaintiff has suffered and continues to suffer economic damages and other damages which will be proved at the time of trial. Additionally, Plaintiff has been emotionally damaged by RTS' unlawful conduct.

III.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

27. Prior to the institution of this lawsuit, Perez filed a complaint with the Department of Fair Employment and Housing ("DFEH"), pursuant to § 12900, *et seq.* of the *Government Code*, alleging that the acts described in this Verified Complaint violated the Fair Employment and Housing Act, *Government Code* § 12940, *et seq.* ("FEHA"). On June 22, 2022, the DFEH issued a "right to sue" letter, a true and correct copy of which is attached hereto, marked as **Exhibit "E"** and by this reference incorporated herein. All conditions precedent to the institution of this lawsuit have been fulfilled. This action is filed within one (1) year of the date the DFEH issued its right to sue letter.

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IV.

FIRST CAUSE OF ACTION**DISABILITY DISCRIMINATION IN VIOLATION OF FEHA –*****GOVERNMENT CODE § 12940, ET SEQ.*****(Against Defendants RTS and DOES 1-25)**

28. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Verified Complaint as if fully alleged herein.

29. Defendants RTS and/or DOES 1-25 are each subject to the laws of the State of California and are entities subject to suit under FEHA for discrimination in that each of these Defendants is an employer who regularly employs five (5) or more persons.

30. At the time of his termination, Plaintiff was an employee of RTS with a physical disability within the definition of *Government Code* § 12926(j), because he suffered from an injury that limited the major life activity of working, and/or was regarded or treated by Defendants RTS and/or DOES 1-25 as an employee with a protected physical disability that limited the major life activity of working.

31. Defendants RTS and/or DOES 1-25 learned of Plaintiff's physical disability on May 16, 2022, when he told Carrillo of his physical injury and then his need for a temporary light duty job posting. Defendants RTS and/or DOES 1-25 remained aware of Plaintiff's physical disability throughout Plaintiff's employment until his illegal termination on or around May 31, 2022.

32. Defendants RTS and/or DOES 1-25 discriminated against Plaintiff on the basis of his physical disability in violation of *Government Code* § 12940 by engaging in such discriminatory actions against Plaintiff as described above, including, but not limited to:

- a. Refusing to accommodate Plaintiff's physical disability;
- b. Refusing to grant Plaintiff reasonable accommodations;
- c. Refusing to engage in a good faith interactive process regarding which accommodations were available to Plaintiff;
- d. Giving false and pretextual reasons for Plaintiff's termination;

1 e. Terminating Plaintiff's employment; and

2 f. By the other conduct alleged above.

3 33. Plaintiff's physical disability, and/or perceived physical disability, and/or Plaintiff
4 being regarded or treated as an employee with a physical disability, was a motivating reason for
5 Defendants RTS and/or DOES 1-25's disparate and discriminatory treatment of Plaintiff.

6 34. As a direct and proximate result of the conduct of Defendants RTS and/or DOES 1-
7 25, and each of them, Plaintiff has suffered and will continue to suffer damages in terms of lost
8 wages, lost bonuses, lost benefits, and other pecuniary loss according to proof. Plaintiff has also
9 suffered and will continue to suffer physical and emotional injuries, including nervousness,
10 humiliation, depression, anguish, embarrassment, fright, shock, pain, discomfort, fatigue, and
11 anxiety. The amount of Plaintiff's damages will be ascertained at trial.

12 35. Defendants RTS and/or DOES 1-25 acted in a despicable, oppressive, and
13 malicious manner with the express intent of injuring or damaging Plaintiff or with conscious
14 disregard of his rights and with the intent to vex, injure, and annoy Plaintiff, such as to constitute
15 oppression, fraud, or malice under *Civil Code* § 3294, thereby entitling Plaintiff to punitive and
16 exemplary damages against Defendants in a sum appropriate to punish and make an example of
17 Defendants.

18 36. The acts of oppression, fraud, or malice against Plaintiff were engaged in by agents
19 and employees of Defendants RTS and/or DOES 1-25. Defendants RTS and/or DOES 1-25 had
20 advance knowledge of the unfitness of employees and/or agents, who acted with malice,
21 oppression, or fraud and employed them with a conscious disregard of the rights or safety of
22 Plaintiff, and/or authorized or ratified the wrongful conduct for which an award of punitive
23 damages is sought, and/or was personally guilty of oppression, fraud, or malice. The advance
24 knowledge and conscious disregard, authorization, ratification, or act of oppression, fraud, or
25 malice was committed by or on the part of an officer, director, or managing agent of Defendants
26 RTS and/or DOES 1-25, thereby entitling Plaintiff to punitive and exemplary damages against
27 Defendants RTS and/or DOES 1-25 in accordance with *Civil Code* § 3294 in a sum appropriate to
28 punish and make an example of Defendants RTS and/or DOES 1-25.

37. FEHA provides for an award of reasonable attorneys' fees and costs incurred by the prevailing party in an action brought under its provisions. Plaintiff has employed and will continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an award of attorneys' fees and costs under *Government Code* § 12965(b).

38. Plaintiff has been generally damaged in an amount within the jurisdictional limits of this Court.

V.

SECOND CAUSE OF ACTION

**FAILURE TO REASONABLY ACCOMMODATE A DISABILITY IN VIOLATION OF
FEHA – *GOVERNMENT CODE* § 12940, *ET SEQ.***

(Against Defendants RTS and DOES 1-25)

39. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Verified Complaint as if fully alleged herein.

40. Defendants RTS and/or DOES 1-25 are each subject to the laws of the State of California and are entities subject to suit under FEHA for discrimination in that each of these Defendants is an employer who regularly employs five (5) or more persons.

41. At the time of his termination, Plaintiff was an employee of RTS with a physical disability within the definition of *Government Code* § 12926(j), because he suffered from an injury that limited the major life activity of working, and/or was regarded or treated by Defendants RTS and/or DOES 1-25 as an employee with a protected physical disability that limited the major life activity of working.

42. Defendants RTS and/or DOES 1-25 learned of Plaintiff's physical disability on May 16, 2022, when he told Carrillo of his physical injury and then his need for a temporary light duty job posting. Defendants RTS and/or DOES 1-25 remained aware of Plaintiff's physical disability throughout Plaintiff's employment until his illegal termination on or around May 31, 2022.

1 43. Defendants RTS and/or DOES 1-25 refusals to reasonably accommodate Plaintiff
2 included, but not limited to:

- 3 a. Refusing to accommodate Plaintiff's physical disability;
- 4 b. Refusing to grant Plaintiff reasonable accommodations;
- 5 c. Refusing to engage in a good faith interactive process regarding which
6 accommodations were available to Plaintiff;
- 7 d. Giving false and pretextual reasons for Plaintiff's termination;
- 8 e. Terminating Plaintiff's employment; and
- 9 f. By the other conduct alleged above.

10 44. Defendants RTS and/or DOES 1-25 violated *Government Code* § 12940(m) by
11 failing and refusing to provide Plaintiff with reasonable accommodations for his known physical
12 disability, and/or perceived physical disability, despite the availability of such accommodations.

13 45. Plaintiff's physical disability, and/or perceived physical disability, and/or Plaintiff
14 being regarded or treated as an employee with a physical disability, was a motivating reason for
15 Defendants RTS and/or DOES 1-25's disparate and discriminatory treatment of Plaintiff.

16 46. As a direct and proximate result of the conduct of Defendants RTS and/or DOES 1-
17 25, and each of them, Plaintiff has suffered and will continue to suffer damages in terms of lost
18 wages, lost bonuses, lost benefits, and other pecuniary loss according to proof. Plaintiff has also
19 suffered and will continue to suffer physical and emotional injuries, including nervousness,
20 humiliation, depression, anguish, embarrassment, fright, shock, pain, discomfort, fatigue, and
21 anxiety. The amount of Plaintiff's damages will be ascertained at trial.

22 47. Defendants RTS and/or DOES 1-25 acted in a despicable, oppressive, and
23 malicious manner with the express intent of injuring or damaging Plaintiff or with conscious
24 disregard of his rights and with the intent to vex, injure, and annoy Plaintiff, such as to constitute
25 oppression, fraud, or malice under *Civil Code* § 3294, thereby entitling Plaintiff to punitive and
26 exemplary damages against Defendants in a sum appropriate to punish and make an example of
27 Defendants.
28

48. The acts of oppression, fraud, or malice against Plaintiff were engaged in by agents and employees of Defendants RTS and/or DOES 1-25. Defendants RTS and/or DOES 1-25 had advance knowledge of the unfitness of employees and/or agents, who acted with malice, oppression, or fraud and employed them with a conscious disregard of the rights or safety of Plaintiff, and/or authorized or ratified the wrongful conduct for which an award of punitive damages is sought, and/or was personally guilty of oppression, fraud, or malice. The advance knowledge and conscious disregard, authorization, ratification, or act of oppression, fraud, or malice was committed by or on the part of an officer, director, or managing agent of Defendants RTS and/or DOES 1-25, thereby entitling Plaintiff to punitive and exemplary damages against Defendants RTS and/or DOES 1-25 in accordance with *Civil Code* § 3294 in a sum appropriate to punish and make an example of Defendants RTS and/or DOES 1-25.

49. FEHA provides for an award of reasonable attorneys' fees and costs incurred by the prevailing party in an action brought under its provisions. Plaintiff has employed and will continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an award of attorneys' fees and costs under *Government Code* § 12965(b).

50. Plaintiff has been generally damaged in an amount within the jurisdictional limits of this Court.

VI.

THIRD CAUSE OF ACTION

FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS IN VIOLATION OF FEHA – *GOVERNMENT CODE* § 12940, *ET SEQ.*

(Against Defendants RTS and DOES 1-25)

51. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Verified Complaint as if fully alleged herein.

52. Defendants RTS and/or DOES 1-25 are each subject to the laws of the State of California and are entities subject to suit under FEHA for discrimination in that each of these Defendants is an employer who regularly employs five (5) or more persons.

53. At the time of his termination, Plaintiff was an employee of RTS with a physical disability within the definition of *Government Code* § 12926(j), because he suffered from an injury that limited the major life activity of working, and/or was regarded or treated by Defendants RTS and/or DOES 1-25 as an employee with a protected physical disability that limited the major life activity of working.

54. Defendants RTS and/or DOES 1-25 learned of Plaintiff's physical disability on May 16, 2022, when he told Carrillo of his physical injury and then his need for a temporary light duty job posting. Defendants RTS and/or DOES 1-25 remained aware of Plaintiff's physical disability throughout Plaintiff's employment until his illegal termination on or around May 31, 2022.

55. Defendants RTS and/or DOES 1-25 failure to engage in a good faith interactive process with Plaintiff to determine reasonable accommodations for his physical disability including, but not limited to:

- a. Refusing to accommodate Plaintiff's physical disability;
- b. Refusing to grant Plaintiff reasonable accommodations;
- c. Refusing to engage in a good faith interactive process regarding which accommodations were available to Plaintiff;
- d. Giving false and pretextual reasons for Plaintiff's termination;
- e. Terminating Plaintiff's employment; and
- f. By the other conduct alleged above.

56. Defendants RTS and/or DOES 1-25 violated *Government Code* §§ 12926.1(e) and 12940, *et seq.* by failing and refusing to engage in the interactive process in a good faith effort to provide Plaintiff with reasonable accommodations for his known physical disability, and/or the physical disability he was regarded or treated as having, despite his requests for reasonable accommodation.

57. Plaintiff's physical disability, and/or perceived physical disability, and/or Plaintiff being regarded or treated as an employee with a physical disability, was a motivating reason for Defendants RTS and/or DOES 1-25's disparate and discriminatory treatment of Plaintiff.

1 58. As a direct and proximate result of the conduct of Defendants RTS and/or DOES 1-
2 25, and each of them, Plaintiff has suffered and will continue to suffer damages in terms of lost
3 wages, lost bonuses, lost benefits, and other pecuniary loss according to proof. Plaintiff has also
4 suffered and will continue to suffer physical and emotional injuries, including nervousness,
5 humiliation, depression, anguish, embarrassment, fright, shock, pain, discomfort, fatigue, and
6 anxiety. The amount of Plaintiff's damages will be ascertained at trial.

7 59. Defendants RTS and/or DOES 1-25 acted in a despicable, oppressive, and
8 malicious manner with the express intent of injuring or damaging Plaintiff or with conscious
9 disregard of his rights and with the intent to vex, injure, and annoy Plaintiff, such as to constitute
10 oppression, fraud, or malice under *Civil Code* § 3294, thereby entitling Plaintiff to punitive and
11 exemplary damages against Defendants in a sum appropriate to punish and make an example of
12 Defendants.

13 60. The acts of oppression, fraud, or malice against Plaintiff were engaged in by agents
14 and employees of Defendants RTS and/or DOES 1-25. Defendants RTS and/or DOES 1-25 had
15 advance knowledge of the unfitness of employees and/or agents, who acted with malice,
16 oppression, or fraud and employed them with a conscious disregard of the rights or safety of
17 Plaintiff, and/or authorized or ratified the wrongful conduct for which an award of punitive
18 damages is sought, and/or was personally guilty of oppression, fraud, or malice. The advance
19 knowledge and conscious disregard, authorization, ratification, or act of oppression, fraud, or
20 malice was committed by or on the part of an officer, director, or managing agent of Defendants
21 RTS and/or DOES 1-25, thereby entitling Plaintiff to punitive and exemplary damages against
22 Defendants RTS and/or DOES 1-25 in accordance with *Civil Code* § 3294 in a sum appropriate to
23 punish and make an example of Defendants RTS and/or DOES 1-25.

24 61. FEHA provides for an award of reasonable attorneys' fees and costs incurred by the
25 prevailing party in an action brought under its provisions. Plaintiff has employed and will
26 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
27 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
28 award of attorneys' fees and costs under *Government Code* § 12965(b).

62. Plaintiff has been generally damaged in an amount within the jurisdictional limits of this Court.

VII.

FOURTH CAUSE OF ACTION

RETALIATION IN VIOLATION OF FEHA – *GOVERNMENT CODE* § 12940, *ET SEQ.*

(Against Defendants RTS and DOES 1-25)

63. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Verified Complaint as if fully alleged herein.

64. Defendants RTS and/or DOES 1-25 are each subject to the laws of the State of California and are entities subject to suit under FEHA for discrimination in that each of these Defendants is an employer who regularly employs five (5) or more persons.

65. *Government Code* § 12940(m)(2) makes it unlawful for an employer to “retaliate or otherwise discriminate against a person for requesting accommodation under this subdivision, regardless of whether the request was granted.”

66. *Government Code* § 12940(h) makes it unlawful for an employer to “discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or assisted in any proceeding under this part.”

67. At the time of his termination, Plaintiff was an employee of RTS with a physical disability within the definition of *Government Code* § 12926(j), because he suffered from an injury that limited the major life activity of working, and/or was regarded or treated by Defendants RTS and/or DOES 1-25 as an employee with a protected physical disability that limited the major life activity of working.

68. Defendants RTS and/or DOES 1-25 learned of Plaintiff’s physical disability on May 16, 2022, when he told Carrillo of his physical injury and then his need for a temporary light duty job posting. Defendants RTS and/or DOES 1-25 remained aware of Plaintiff’s physical disability throughout Plaintiff’s employment until his illegal termination on or around May 31, 2022.

69. Plaintiff engaged in a protected activity when he requested reasonable accommodations for his known physical disability.

70. Plaintiff also engaged in a protected activity when he opposed the discrimination and retaliation he was subjected to on the basis of his physical disability and requested reasonable accommodation.

71. Defendants RTS and/or DOES 1-25 violated *Government Code* §§ 12940(m)(2) and 12940(h) and retaliated against Plaintiff for requesting reasonable accommodations for his known physical disability and/or for opposing unlawful discrimination and retaliation by acts which included, but were not limited to, the following:

- a. Refusing to accommodate Plaintiff's physical disability;
- b. Refusing to grant Plaintiff reasonable accommodations;
- c. Refusing to engage in a good faith interactive process regarding which accommodations were available to Plaintiff;
- d. Giving false and pretextual reasons for Plaintiff's termination;
- e. Terminating Plaintiff's employment; and
- f. By the other conduct alleged above.

72. As a result of the foregoing conduct by Defendants RTS and/or DOES 1-25, Plaintiff was subjected to retaliation as set forth above.

73. As a direct and proximate result of the conduct of Defendants RTS and/or DOES 1-25, and each of them, Plaintiff has suffered and will continue to suffer damages in terms of lost wages, lost bonuses, lost benefits, and other pecuniary loss according to proof. Plaintiff has also suffered and will continue to suffer physical and emotional injuries, including nervousness, humiliation, depression, anguish, embarrassment, fright, shock, pain, discomfort, fatigue, and anxiety. The amount of Plaintiff's damages will be ascertained at trial.

74. Defendants RTS and/or DOES 1-25 acted in a despicable, oppressive, and malicious manner with the express intent of injuring or damaging Plaintiff or with conscious disregard of his rights and with the intent to vex, injure, and annoy Plaintiff, such as to constitute oppression, fraud, or malice under *Civil Code* § 3294, thereby entitling Plaintiff to punitive and

1 exemplary damages against Defendants in a sum appropriate to punish and make an example of
2 Defendants.

3 75. The acts of oppression, fraud, or malice against Plaintiff were engaged in by agents
4 and employees of Defendants RTS and/or DOES 1-25. Defendants RTS and/or DOES 1-25 had
5 advance knowledge of the unfitness of employees and/or agents, who acted with malice,
6 oppression, or fraud and employed them with a conscious disregard of the rights or safety of
7 Plaintiff, and/or authorized or ratified the wrongful conduct for which an award of punitive
8 damages is sought, and/or was personally guilty of oppression, fraud, or malice. The advance
9 knowledge and conscious disregard, authorization, ratification, or act of oppression, fraud, or
10 malice was committed by or on the part of an officer, director, or managing agent of Defendants
11 RTS and/or DOES 1-25, thereby entitling Plaintiff to punitive and exemplary damages against
12 Defendants RTS and/or DOES 1-25 in accordance with *Civil Code* § 3294 in a sum appropriate to
13 punish and make an example of Defendants RTS and/or DOES 1-25.

14 76. FEHA provides for an award of reasonable attorneys' fees and costs incurred by the
15 prevailing party in an action brought under its provisions. Plaintiff has employed and will
16 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
17 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
18 award of attorneys' fees and costs under *Government Code* § 12965(b).

19 77. Plaintiff has been generally damaged in an amount within the jurisdictional limits
20 of this Court.

21 VIII.

22 FIFTH CAUSE OF ACTION

23 **FAILURE TO PREVENT DISCRIMINATION AND RETALIATION IN VIOLATION OF**

24 **FEHA – *GOVERNMENT CODE* § 12940, *ET SEQ.***

25 **(Against Defendants RTS and DOES 1-25)**

26 78. Plaintiff realleges and incorporates by reference all preceding paragraphs of this
27 Verified Complaint as if fully alleged herein.

79. Defendants RTS and/or DOES 1-25 are each subject to the laws of the State of California and are entities subject to suit under FEHA for discrimination in that each of these Defendants is an employer who regularly employs five (5) or more persons.

80. FEHA makes it unlawful for an employer to “fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.” *Government Code* § 12940(k).

81. At the time of his termination, Plaintiff was an employee of RTS with a physical disability within the definition of *Government Code* § 12926(j), because he suffered from an injury that limited the major life activity of working, and/or was regarded or treated by Defendants RTS and/or DOES 1-25 as an employee with a protected physical disability that limited the major life activity of working.

82. Defendants RTS and/or DOES 1-25 learned of Plaintiff’s physical disability on May 16, 2022, when he told Carrillo of his physical injury and then his need for a temporary light duty job posting. Defendants RTS and/or DOES 1-25 remained aware of Plaintiff’s physical disability throughout Plaintiff’s employment until his illegal termination on or around May 31, 2022.

83. Plaintiff engaged in a protected activity when he requested reasonable accommodations for his known physical disability.

84. Plaintiff also engaged in a protected activity when he opposed the discrimination and retaliation he was subjected to on the basis of his physical disability and requested reasonable accommodation.

85. Defendants RTS and/or DOES 1-25 violated *Government Code* § 12940(k) and failed to prevent discrimination and retaliation on the basis of Plaintiff’s physical disability, and/or for requesting reasonable accommodations for his physical disability, and/or for opposing unlawful discrimination and retaliation, by acts which included, but were not limited to, the following:

- a. Refusing to accommodate Plaintiff’s physical disability;
- b. Refusing to grant Plaintiff reasonable accommodations;

1 c. Refusing to engage in a good faith interactive process regarding which
2 accommodations were available to Plaintiff;

3 d. Giving false and pretextual reasons for Plaintiff's termination;

4 e. Terminating Plaintiff's employment; and

5 f. By the other conduct alleged above.

6 86. As a result of the foregoing conduct by Defendants, Plaintiff was subjected to
7 disability discrimination, and/or discrimination and retaliation for requesting reasonable
8 accommodations for his physical disability and/or for opposing unlawful discrimination and
9 retaliation, and Defendants RTS and/or DOES 1-25 failed to prevent the illegal conduct to which
10 Plaintiff was subjected to as set forth above.

11 87. As a direct and proximate result of the conduct of Defendants RTS and/or DOES 1-
12 25, and each of them, Plaintiff has suffered and will continue to suffer damages in terms of lost
13 wages, lost bonuses, lost benefits, and other pecuniary loss according to proof. Plaintiff has also
14 suffered and will continue to suffer physical and emotional injuries, including nervousness,
15 humiliation, depression, anguish, embarrassment, fright, shock, pain, discomfort, fatigue, and
16 anxiety. The amount of Plaintiff's damages will be ascertained at trial.

17 88. Defendants RTS and/or DOES 1-25 acted in a despicable, oppressive, and
18 malicious manner with the express intent of injuring or damaging Plaintiff or with conscious
19 disregard of his rights and with the intent to vex, injure, and annoy Plaintiff, such as to constitute
20 oppression, fraud, or malice under *Civil Code* § 3294, thereby entitling Plaintiff to punitive and
21 exemplary damages against Defendants in a sum appropriate to punish and make an example of
22 Defendants.

23 89. The acts of oppression, fraud, or malice against Plaintiff were engaged in by agents
24 and employees of Defendants RTS and/or DOES 1-25. Defendants RTS and/or DOES 1-25 had
25 advance knowledge of the unfitness of employees and/or agents, who acted with malice,
26 oppression, or fraud and employed them with a conscious disregard of the rights or safety of
27 Plaintiff, and/or authorized or ratified the wrongful conduct for which an award of punitive
28 damages is sought, and/or was personally guilty of oppression, fraud, or malice. The advance

1 knowledge and conscious disregard, authorization, ratification, or act of oppression, fraud, or
 2 malice was committed by or on the part of an officer, director, or managing agent of Defendants
 3 RTS and/or DOES 1-25, thereby entitling Plaintiff to punitive and exemplary damages against
 4 Defendants RTS and/or DOES 1-25 in accordance with *Civil Code* § 3294 in a sum appropriate to
 5 punish and make an example of Defendants RTS and/or DOES 1-25.

6 90. FEHA provides for an award of reasonable attorneys' fees and costs incurred by the
 7 prevailing party in an action brought under its provisions. Plaintiff has employed and will
 8 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
 9 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
 10 award of attorneys' fees and costs under *Government Code* § 12965(b).

11 91. Plaintiff has been generally damaged in an amount within the jurisdictional limits
 12 of this Court.

13 IX.

14 SIXTH CAUSE OF ACTION

15 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

16 **(Against Defendants RTS and DOES 1-25)**

17 92. Plaintiff realleges and incorporates by reference all preceding paragraphs of this
 18 Verified Complaint as if fully alleged herein.

19 93. Plaintiff was terminated by RTS and/or DOES 1-25 in whole, or in part, because he
 20 suffered from a known disability, and/or because he requested reasonable accommodations, and/or
 21 because he opposed unlawful discrimination and retaliation.

22 94. Defendants RTS and/or DOES 1-25 terminated Plaintiff, in whole or in part, in
 23 violation of the public policy set forth in FEHA, *Government Code* § 12940, *et seq.*, which
 24 prohibits disability discrimination, failure to provide reasonable accommodations, failure to
 25 engage in an interactive process regarding available reasonable accommodations, retaliation for
 26 requesting reasonable accommodations, and retaliation for opposing practices forbidden under
 27 FEHA.
 28

95. As a proximate result of the conduct of Defendants, and each of them, Plaintiff has suffered and will continue to suffer damages in terms of lost wages, lost bonuses, lost benefits, and other pecuniary loss according to proof. Plaintiff has also suffered and will continue to suffer physical and emotional injuries, including nervousness, humiliation, depression, anguish, embarrassment, fright, shock, pain, discomfort, fatigue, and anxiety. The amount of Plaintiff's damages will be ascertained at trial.

96. In committing the foregoing acts, Defendants have been guilty of oppression, fraud, or malice under *Civil Code* § 3294, thereby entitling Plaintiff to punitive damages in a sum appropriate to punish and make an example out of each of the foregoing Defendants.

97. Defendants RTS and/or DOES 1-25's acts as alleged above were carried out by its employees, managing agents, officers and directors, and/or were directed or ratified by Defendants RTS and/or DOES 1-25's managing agents, officers and/or directors with a conscious disregard of Plaintiff's rights and with the intent to vex, injure and annoy Plaintiff, such as to constitute oppression, fraud or malice under *Civil Code* § 3294, entitling Plaintiff to punitive damages in a sum appropriate to punish and make an example of Defendants RTS and/or DOES 1-25.

98. Plaintiff has been generally damaged in an amount within the jurisdictional limits of this Court.

X.

SEVENTH CAUSE OF ACTION

DECLARATORY AND INJUNCTIVE RELIEF PURSUANT TO *CODE OF CIVIL PROCEDURE* § 1060; *GOVERNMENT CODE* §§ 12920 and 12920.5, *ET SEQ.*

(Against Defendants RTS and DOES 1-25)

99. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Verified Complaint as if fully alleged herein.

100. An actual controversy exists between Plaintiff and Defendants RTS and/or DOES 1-25, concerning whether Defendants, and each of them, violated Plaintiff's rights under the California Fair Employment and Housing Act, as alleged in this Verified Complaint. Plaintiff seeks a finding from the Court that Defendants' adverse employment actions were substantially

1 motivated by unlawful discrimination and/or retaliation, regardless of whether Defendants prove
 2 that they would have made the same employment decisions concerning Plaintiff even if
 3 discrimination and/or retaliation was not a substantial motivating factor for the adverse
 4 employment actions concerning Plaintiff. Plaintiff seeks an order from the Court condemning
 5 Defendants' discriminatory employment policies or practices, as provided by *Code of Civil*
 6 *Procedure* § 1060.

7 101. In addition, upon a finding of unlawful discrimination and/or retaliation, Plaintiff
 8 requests that the Court grant injunctive relief to stop the discriminatory and retaliatory practices
 9 which violate FEHA as provided for in *Government Code* §§ 12920, 12920.5, and California
 10 Supreme Court's decisions in *Harris v. City of Santa Monica*, 56 Cal. 4th, 203, 234-35 (2013) and
 11 *Aguilar v. Avis Rent A Car System, Inc.*, 21 Cal. 4th, 121, 131-32 (1999).

12 102. Under FEHA, "in order to eliminate discrimination, it is necessary to provide
 13 effective remedies that will both prevent and deter unlawful employment practices and redress the
 14 adverse effects of those practices on aggrieved persons." *Government Code* § 12920.5.

15 103. One of the stated purposes of FEHA is "to provide effective remedies which will
 16 eliminate" employment discrimination. *Government Code* § 12920.

17 104. FEHA authorizes a court to grant injunctive relief and prospective relief including
 18 but not limited to, cease and desist orders, posting of notices, training of personnel and other
 19 similar relief that is intended to correct unlawful employment practices. *Government Code* §
 20 12926(a).

21 105. Upon determination that unlawful discrimination and/or retaliation was a
 22 substantial motivating factor in any employment decision concerning Plaintiff, Plaintiff requests
 23 this Court to enter an order enjoining Defendants from engaging in those practices, requiring the
 24 posting of notices containing employees' rights and detailing Defendants' violations of FEHA,
 25 requiring Defendants to effectively train their personnel in FEHA's proscriptions against
 26 discrimination and retaliation, and requiring Defendants to make periodic reports to the Court to
 27 ensure compliance by Defendants, and each of them, with their obligations under FEHA.
 28

106. Pursuant to *Government Code* § 12965(b), Plaintiff seeks an award from the Court of reasonable attorneys' fees and costs incurred in obtaining the declaratory and injunctive relief.

WHEREFORE, Plaintiff prays for judgment as set forth below.

PRAYER

1. For general damages, according to proof, on each cause of action for which such damages are available;
2. For special damages, according to proof, on each cause of action for which such damages are available;
3. For compensatory damages, according to proof, on each cause of action for which such damages are available;
4. For punitive damages, according to proof, for each cause of action for which such damages are available;
5. For pre-judgment and post-judgment interest according to law;
6. For reasonable attorneys' fees incurred in this action on those causes of action for which such fees are recoverable under the applicable law;
7. For costs of suit incurred in this action;
8. For declaratory and injunctive relief for each cause of action for which such relief is available; and
9. For such other and further relief as the Court deems just and proper.

Dated: June 21, 2022

FREEBURG & GRANIERI, APC

By: Gregory S. Freeburg

Gregory S. Freeburg
Christy W. Granieri
Anton C. Swain-Gil
Attorneys for Plaintiff
Humberto Perez

DEMAND FOR JURY TRIAL

Plaintiff Humberto Perez hereby demands a trial by jury on all causes of action alleged herein in the Verified Complaint for Damages and Demand for Jury Trial.

Dated: June 21, 2022

By: Gregory S. Freeburg

Gregory S. Freeburg
Christy W. Granieri
Anton C. Swain-Gil
Attorneys for Plaintiff
Humberto Perez

VERIFICATION

I have read the foregoing Verified Complaint for Damages and Demand for Jury Trial and know its contents.

I am a party to this action. The matters stated in the Verified Complaint for Damages and Demand for Jury Trial are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

Executed on Jun 22, 2022, at Simi Valley, California.

I declare under penalty of perjury under the laws of the State of California and under the laws of the United States of America that the foregoing is true and correct.

Humberto Perez

Humberto Perez (Jun 22, 2022 19:01 PDT)

Humberto Perez

EXHIBIT A



Watch Your Following Distance

Location: 09218 - CHARTER CA RETAIL

Order Number: 092180021187

Trip Sheet

Run Date: 05/06/2022

Promised:

Check in: _____

Driver(s): PERHUM Humberto Perez
 UNKNOWN UNKNOWN
 Route: NBP-09218 Newbury Park Hourly Route

Tractor:

Trailer(s):

Est Time: 11:50

Est Miles: 0

Ref #: NP_4Fr_050222

Stop#	Stop Information	Zone Temps	Load Information	Miles	Stop Time In / Out	ETA	Delay Reasons/Site Info
1	0921809218NEWBURY PARK - NEWBURY PARK WAREHOUSE 2323 Teller Rd Thousand Oaks, CA 91320 (UNK) -	2:30 - 3:00 In Out In Out In Out ReefHR		Pin: 0 Act: 0	04:00 / 04:05 E Odo: 96122 Stop Time: 0:05	04:00	
==> Delivery Instructions: Op:00:00-CI:00:01							
2	0921809218OxnardStore - OXNARD TECH YARD 721 Maulhardt Ave Oxnard, CA 93030 (UNK) -	3:30 - 5:00 In Out In Out In Out ReefHR	1 Pallet IN 1 Pallet out	Pin: 0 Act:	05:00 / 05:05 E Odo: 96137 Stop Time: 0:05	05:00	
==> Delivery Instructions: Op:00:00-CI:00:01							
3	0921809218OxnardTech - OXNARD RETAIL STORE 1680 E Gonzales Rd Oxnard, CA 93030 (UNK) -	5:15 - 6:15 In Out In Out In Out ReefHR	1 Pallet IN 1 Pallet out	Pin: 0 Act:	06:45 / 06:50 E Odo: 96138 Stop Time: 0:05	06:45	
==> Delivery Instructions: Op:00:00-CI:00:01							
4	0921809218VenturaStore1 - Ventura Store1				08:45 / 08:50 E	08:45	

Version: 20150506

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0/22, 3:26 PM



Watch Your Following Distance

Location: 09218 - CHARTER CA RETAIL

Order Number: 092180021187

Trip Sheet

Run Date: 05/06/2022

Promised:

Check in: _____

51 West Main St

Ventura, CA 93001
(UNK) -

710-745
In Out
In Out
In Out
ReefHR

1 Pallet IN
1 Pallet out

Pln: 0

Act:

Odo: *96149*
Stop Time: 0:05

⇒ Delivery Instructions: Op:00:00-CI:00:01

5

0921809218THOUSANDOAKS - THOUSAND
OAKS WAREHOUSE
162 W HILLCREST DR

Thousand Oaks, CA 91360

520-845
In Out
In Out
In Out
ReefHR

1 Pallet IN
1 Pallet out

Pln: 0

Act:

10:30 / 10:35 E 10:30
Odo: *96127*
Stop Time: 0:05

⇒ Delivery Instructions: Op:00:00-CI:00:01

6

0921809218WESTLAKE - WESTLAKE
STORE
3825 THOUSAND OAKS

Westlake Village, CA 91361

90-945
In Out
In Out
In Out
ReefHR

1 Pallet
1 Pallet

Pln: 0

Act:

12:15 / 12:20 E 12:15
Odo: *96182*
Stop Time: 0:05

⇒ Delivery Instructions: Op:00:00-CI:00:01

7

0921809218SimiValleyStore - SIMI VALLEY
STORE 2
1555 SIMI TOWN CENTER WAY
SUITE 125

Simi Valley, CA 93065

1015-1130
In Out
In Out
In Out
ReefHR

1 Pallet IN
1 Pallet out

Pln: 0

Act:

14:15 / 14:20 E 14:15
Odo: *96201*
Stop Time: 0:05

⇒ Delivery Instructions: Op:00:00-CI:00:01



Watch Your Following Distance

Location: 09218 - CHARTER CA RETAIL

Order Number:

Trip Sheet

Run Date:

Promised:

Check in: _____

If I was precluded from timely taking any of my 10 minute uninterrupted rest breaks to which I am entitled, I have checked the box below and reported the same to my manager or dispatcher pursuant to company policy. ☐

Driver Signature:

[Handwritten Signature]

Manager Signature: _____

EXHIBIT B



A Good Pre-Trip is not a Good Thing to Waste

Trip Sheet

Location: 09218 - CHARTER CA RETAIL

Run Date: 5/6/2022

Order Number: 092180021187

Check in:

Driver(s):
Route:

MARCOS LEON

Tractor:

Trailer(s):

Ref #: Friday

Stop#	Stop Information	Load Information	Miles	Stop Time In / Out	ETA	Delay Reasons/Site Info
1	Name: NEWBURY PARK WAREHOUSE			2:30 - 3:00		
2	Name: NEWBURY PARK WAREHOUSE			1300 - 1400		

TRIP RECAP

Beg Mileage: Beg Time:
End Mileage: End Time:
Tot Mileage: Tot Time:

I acknowledge that I have been provided with all the rest and meal periods to which I was entitled during the time period above including, one 10 minute rest period for every hours worked (or major fraction thereof) and one 30 minute uninterrupted duty-free meal period for every 5 hours worked.

FIRST MEAL PERIOD

Start 9:30 End 10:00

SECOND MEAL PERIOD

Start End

(Only complete if you work more than 10 hours and less than 12 hours in a workday and you did not waive the second meal break in writing or you worked more than 12 hours)

I was precluded from timely taking my first and/or second 30 minute uninterrupted off-duty meal breaks, I have checked the box (or boxes) as applicable and reported the same to my manager or dispatcher pursuant to company policy.

Prevented from timely taking my first meal period

Prevented from timely taking my second meal period

I was precluded from timely taking any of my 10 minute uninterrupted rest breaks to which I am entitled, I have checked the box below and reported the same to my manager or dispatcher pursuant to company policy.

Driver Signature:

Manager Signature:

Page 1 of 79

05262020090055661

EXHIBIT C

Concentra Occupational Med Ctrs-CA

9700 De Soto Ave Chatsworth, CA 91311
Phone: (818) 882-8100 Fax: (818) 700-8255

Transcription

Patient: Perez, Humberto Service ID #: 951597893
 Soc. Sec. #: XXXXX1691 Referral Q ID:
 Date of Birth: 8/17/1956 Age: Injury Date: 5/17/2022 Service Date: 5/17/2022
 Service Location: CMC - LAX Chatsworth Employer: Ryder #8101
 Claim Number: Dictated By: Kavita Sinha, MD
 Diagnosis: S86.911A STRAIN OF UNSP MUSC/TEND AT LOWER LEG LEVEL, RIGHT LEG, INIT-S86.911A

Notes:

Reason For Visit

Chief Complaint: The patient presents today with right knee and left ankle pain.

Chaperone was offered: Patient declined the presence of a chaperone

Vitals

Vital Signs

Recorded: 17May2022 12:46PM

Temperature: 98.2 F

Systolic: 167

Diastolic: 102

BP Cuff Size: Large - Adult

Heart Rate: 80

Respiration: 16

Height: 5 ft 10 in

Weight: 200 lb

BMI Calculated: 28.7 kg/m2

BSA Calculated: 2.09

Medical History

No significant past medical history

FAMILY HISTORY:

The patients family history has been obtained and carefully reviewed. It has been

determined that the patients family history is noncontributory to the current injury

Surgical History

History of No pertinent past surgical history (Z78.9)

Allergies

No Known Allergies

Occupational History

Occupational History

Occupational history was provided by the patient.

Type of job / Job title: Driver

Major job functions: driver

Length of time at this job: 4 year(s).

Average daily work hours: 8. Average weekly work hours: 40.

Recent overtime: No

Kavita Sinha, MD

Documented By: Kavita Sinha, MD

Documented On: 5/17/2022 1:25 PM

Last Update: 05/17/2022 13:25:23

Last Updated By:

Transcription Printed Date: 05/17/2022

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Form Revision Date: 11/17/2009

Case #56-2022-00570401-CU-OE-VTA RECEIPT #: 1221001D112738 DATE PAID : 10/1/22 7:52 AM TOTAL : 435.00 TYPE : EFT

Ventura Superior Court Accepted through eDelivery submitted 09-26-2022 at 08:48:20 AM

Concentra Occupational Med Ctrs-CA9700 De Soto Ave Chatsworth, CA 91311
Phone: (818) 882-8100 Fax: (818) 700-8255**Transcription**

Patient:	Perez, Humberto	Service ID #:	951597893
Soc. Sec. #:	XXXXXX1691	Referral Q ID:	
Date of Birth:	8/17/1956 Age:	Injury Date:	5/17/2022 Service Date: 5/17/2022
Service Location:	CMC - LAX Chatsworth	Employer:	Ryder #8101
Claim Number:		Dictated By:	Kavita Sinha, MD
Diagnosis:	S86.911A STRAIN OF UNSP MUSC/TEND AT LOWER LEG LEVEL, RIGHT LEG, INIT-S86.911A		

Notes:**History of Present Illness**

The patient arrived unscheduled with an injury/condition which required the clinician to provide immediate attention. Based upon the assessment, and the urgency of the presenting condition(s), services were provided on an emergent basis interrupting the clinician's usual services in the clinic. Humberto Perez is a 65 year male here for an initial evaluation of an injury sustained on 17 May 2022 8:30AM.

Mechanism of Injury: the patient was at work when he was stepping out of truck, left shoelace untied and stepped on it with right foot causing both left ankle to twist, injuring back of ankle at Achilles tendon and right knee to pivot right while foot remained stationary and now with swelling and pain of right knee. Currently the patient has moderate dull pain in the right knee and left Achilles tendon at ankle.

There are no other associated symptoms.

Has previous work related injuries to left shoulder and lower back.

Review of Systems

Constitutional: no fever.
Eyes: no eye pain.
Cardiovascular: Reviewed and found to be negative.
Respiratory: no shortness of breath.
Gastrointestinal: no abdominal pain.
Musculoskeletal: joint pain.
Integumentary: no rashes.
Neurological: no headache.
Psychiatric: no anxiety.
Hematologic and Lymphatic: doesn't bleed easily.

Physical Exam

GENERAL: alert, awake, in no acute distress.
HEAD: atraumatic, no masses noted.

*Kavita Sinha, MD***Documented By: Kavita Sinha, MD****Documented On: 5/17/2022 1:25 PM****Last Update:** 05/17/2022 13:25:23**Last Updated By:****Transcription Printed Date:** 05/17/2022

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Form Revision Date: 11/17/2009

Concentra Occupational Med Ctrs-CA

9700 De Soto Ave Chatsworth, CA 91311
 Phone: (818) 882-8100 Fax: (818) 700-8255

Transcription

Patient: Perez, Humberto Service ID #: 951597893
 Soc. Sec. #: XXXXX1691 Referral Q ID:
 Date of Birth: 8/17/1956 Age: Injury Date: 5/17/2022 Service Date: 5/17/2022
 Service Location: CMC - LAX Chatsworth Employer: Ryder #8101
 Claim Number: Dictated By: Kavita Sinha, MD
 Diagnosis: S86.911A STRAIN OF UNSP MUSC/TEND AT LOWER LEG LEVEL, RIGHT LEG, INIT-S86.911A

Notes:

EYES: Extraocular muscles intact, Pupils equal and round
 EARS, NOSE, MOUTH AND THROAT: external appearance of ears and nose normal, hearing normal.
 RESPIRATORY: no labored breathing, chest appearance normal.
 SKIN: normal by inspection, dry.
 NEUROLOGIC: sensation and motor strength normal.
 PSYCHIATRIC: mood and affect normal; speech normal.
 EXAM OF THE LEFT ANKLE:
 Inspection: swelling noted a long lateral edge.
 Gait is antalgic, favoring Right.
 Normal range of motion.
 Palpation: tenderness to palpation at the Anterior Talofibular Ligament.
 Motor: 5/5 plantarflexion, dorsiflexion, inversion and eversion.
 Sensory and circulatory function are normal.
 Eversion Stress Test for medial instability of ankle is negative.
 Inversion Stress Test for lateral instability of ankle is negative.
 Anterior Drawer Sign for instability of the ankle joint is negative.
 Thompson Squeeze Test for integrity of the Achilles tendon is negative.
 Opposite ankle is normal.
 EXAM OF THE RIGHT KNEE:
 Inspection: gross exam of the knee is swollen
 Gait is antalgic.
 Heel and toe walks with difficulty.
 Range of motion of the knee is limited
 Palpation of the knee elicits tenderness
 McMurray Test for meniscal tears is equivocal
 Anterior Posterior / Drawer Sign for integrity of cruciate ligament is equivocal
 Abduction/Adduction Stress Tests for integrity of collateral ligament is negative.
 Apprehension test for left patellar dislocation or subluxation is negative.
 Bulge Sign I Ballottement Test for joint effusion is negative.
 Patellofemoral grinding test for retropatellar pathology is negative.
 Exam of the opposite knee is normal.
 Sensory and circulatory function of the lower extremity is normal.
 Hip and ankle range of motion is normal.

Radiology Results

Degenerative changes, OA

Kavita Sinha, MD

Documented By: Kavita Sinha, MD

Documented On: 5/17/2022 1:25 PM

Concentra Occupational Med Ctrs-CA

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 Soc. Sec. #: XXXXX1691 Referral Q ID:
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 Service Location: CMC - LAX Chatsworth Employer: Ryder #8101
 Claim Number: Dictated By: Kavita Sinha, MD
 Diagnosis: S86.911A STRAIN OF UNSP MUSC/TEND AT LOWER LEG LEVEL, RIGHT LEG, INIT-S86.911A

Notes:

Right knee effusion

This is a preliminary radiology interpretation. The images were sent to a radiologist for final interpretation.

Preliminary radiology results were discussed with the patient.

X-Rays were reviewed with the patient.

Final x-ray results need to be reviewed at next clinical visit.

ASSESSMENT

1. Knee strain, right, initial encounter (S86.911A)
2. Left ankle strain, initial encounter (S96.912A)
3. Achilles tendon sprain, left, sequela (S86.012S)

Plan

1. Start: Nabumetone 750 MG Oral Tablet; TAKE 1 TABLET TWICE DAILY AS

NEEDED

Rx By: Sinha, Kavita; Dispense: 7 Days ; #:14 Tablet; Refill: 0;For: Achilles

tendon sprain, left, sequela; DAW = N; Verified Transmission to CONCENTRA

-

CHATSWORTH; Last Updated By: System, SureScripts; 5/17/2022 1:22:17 PM

2. Physical Therapy Referral Physical Therapy See Referral Comment! Done:

17May2022

Ordered;For: Knee strain, right, initial encounter, Left ankle strain, initial

encounter; Ordered By: Sinha, Kavita Performed: Due: 31May2022

Laterality 2 : Right

Body Part 2 : Knee

Laterality 1 : Left

Body Part 1 : Ankle

PT Necessary : PT is medically necessary to address objective impairment/functional

loss and to expedite return to full activity

Frequency : 3 x week

Duration : 2 weeks

Therapy Order : Evaluate and Treat

3. X-Ray, Left ankle; complete, minimum of 3 views; Done: 17May2022 Perform:RAMSOFT; Due:24May2022; Last Updated By:Garcia, Fabiola N; 5/17/2022 1:14:

38 PM;Ordered; For: Achilles tendon sprain, left, sequela, Knee strain, right,



Documented By: Kavita Sinha, MD

Documented On: 5/17/2022 1:25 PM

Last Update: 05/17/2022 13:25:23

Last Updated By:

Transcription Printed Date: 05/17/2022

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Concentra Occupational Med Ctrs-CA

9700 De Soto Ave Chatsworth, CA 91311
Phone: (818) 882-8100 Fax: (818) 700-8255

Transcription

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 Service Location: CMC - LAX Chatsworth Employer: Ryder #8101
 Claim Number: Dictated By: Kavita Sinha, MD
 Diagnosis: S86.911A STRAIN OF UNSP MUSC/TEND AT LOWER LEG LEVEL, RIGHT LEG, INIT-S86.911A

Notes:

initial encounter, Left ankle strain, initial encounter; Ordered By: Sinha, Kavita;

Was patient shielded? : Yes

4. X-Ray, Right knee; 3 views; Done: 17May2022

Perform: RAMSOFT; Due: 24May2022; Last Updated By: Garcia, Fabiola N;
 5/17/2022 1:14:

38 PM; Ordered; For: Achilles tendon sprain, left, sequela, Knee strain, right,

initial encounter, Left ankle strain, initial encounter; Ordered By: Sinha, Kavita;

Was patient shielded? : Yes

Supplies dispensed today for home use. The patient was instructed to use as directed

for reduction of pain.

Hinged Knee Support

Ankle Sleeve

Custom Touch 2 Moist Electric Heat Pad

Hot/Cold pack

ALL THE PATIENT'S MEDICATIONS FOR THIS ENCOUNTER WERE DISPENSED IN THE CENTER.

Discussion/Summary

Humberto Perez is a 65 year male here for an initial evaluation of an injury

sustained on 17 May 2022 8:30AM.

Mechanism of Injury: the patient was at work when he was stepping out of truck, left

shoelace untied and stepped on it with right foot causing both left ankle to twist,

injuring back of ankle at Achilles tendon and right knee to pivot right while foot

remained stationary and now with swelling and pain of right knee

Currently the patient has moderate dull pain in the right knee and left Achilles

Kavita Sinha, MD

Documented By: Kavita Sinha, MD

Documented On: 5/17/2022 1:25 PM

Last Update: 05/17/2022 13:25:23

Last Updated By:

Transcription Printed Date: 05/17/2022

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Form Revision Date: 11/17/2009

Case #56-2022-00570401-CU-OE-VTA RECEIPT #: 1221001D112738 DATE PAID : 10/1/22 7:52 AM TOTAL : 435.00 TYPE : EFT

Ventura Superior Court Accepted through eDelivery submitted 09-26-2022 at 08:48:20 AM

Concentra Occupational Med Ctrs-CA
 9700 De Soto Ave Chatsworth, CA 91311
 Phone: (818) 882-8100 Fax: (818) 700-8255

Transcription

Patient: Perez, Humberto Service ID #: 951597893
 Soc. Sec. #: XXXXX1691 Referral Q ID:
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 Service Location: CMC - LAX Chatsworth Employer: Ryder #8101
 Claim Number: Dictated By: Kavita Sinha, MD
 Diagnosis: S86.911A STRAIN OF UNSP MUSC/TEND AT LOWER LEG LEVEL, RIGHT LEG, INIT-S86.911A

Notes:

tendon at ankle
 There are no other associated symptoms.
 Has previous work related injuries to left shoulder and lower back
 NSAIDS
 PT
 Ice/Heat
 RTW with restrictions
 RTC in two days

Chaperone was declined

.
 .
 This encounter was coded utilizing the current Evaluation and Management Guidelines as adopted by the current year state fee schedule. The work value of the visit contained in this report meets the Medical Decision Making (MDM) criteria for complexity of the selected E/M code. The reported injury necessitates the assessment and determination of the threat to ongoing harm to bodily function or exacerbation of the injury, particularly when a decision is made to return the patient to work (full duty or limited), and/or due to the consideration of multiple treatment options. The work value was credited considering AMA's definition that the final diagnosis for a condition does not, in and of itself, determine the complexity or risk, as an extensive evaluation may be required to reach the conclusion that the signs or symptoms do not represent a highly morbid

Kavita Sinha, MD

Documented By: Kavita Sinha, MD

Documented On: 5/17/2022 1:25 PM

Last Update: 05/17/2022 13:25:23

Last Updated By:

Transcription Printed Date: 05/17/2022

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Form Revision Date: 11/17/2009

Concentra Occupational Med Ctrs-CA

9700 De Soto Ave Chatsworth, CA 91311
Phone: (818) 882-8100 Fax: (818) 700-8255

Transcription

Patient:	Perez, Humberto	Service ID #:	951597893
Soc. Sec. #:	XXXXX1691	Referral Q ID:	
Date of Birth:	8/17/1956 Age:	Injury Date:	5/17/2022 Service Date: 5/17/2022
Service Location:	CMC - LAX Chatsworth	Employer:	Ryder #8101
Claim Number:		Dictated By:	Kavita Sinha, MD
Diagnosis:	S86.911A STRAIN OF UNSP MUSC/TEND AT LOWER LEG LEVEL, RIGHT LEG, INIT-S86.911A		

Notes:

condition. Therefore, presenting symptoms that could potentially represent a high morbidity condition may "drive" MDM even when the ultimate diagnosis is not highly morbid. The evaluation and/or treatment should be consistent with the likely nature of the condition, the circumstance of the incident, and the unique features of the individual patient. Multiple problems of a lower severity may, in the aggregate, create a higher clinical risk or impact return to work due to their cumulative effects. In addition to the AMA guideline criteria, we also request consideration for the Worker's Compensation unique work value including assessing causation, apportionment, work status, disability status, functional capacity, applicability of relevant treatment and/or disability duration guidelines and coordination of care for the treatment of the work related condition. This evaluation should be considered, for the applicable work value of the assessment, reflected in the Medical Decision Making Guidelines.

History and mechanism of injury were obtained directly from the patient, unless otherwise noted, and appear to be consistent with presenting symptoms and physical exam.

I declare under penalty of perjury that this report is true and correct to the best of my knowledge and that I have not violated Labor Code No. 139.3. A comprehensive discussion was held with the patient to review the diagnosis and overall treatment plan and objectives. The patient verbally acknowledged their understanding of all items discussed, and was afforded an opportunity to get



Documented By: Kavita Sinha, MD

Documented On: 5/17/2022 1:25 PM

Last Update: 05/17/2022 13:25:23

Last Updated By:

Transcription Printed Date: 05/17/2022

r_transcription Page 7 of 8

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Form Revision Date: 11/17/2009

Concentra Occupational Med Ctrs-CA9700 De Soto Ave Chatsworth, CA 91311
Phone: (818) 882-8100 Fax: (818) 700-8255**Transcription**

Patient:	Perez, Humberto	Service ID # :	951597893
Soc. Sec. #:	XXXXXX1691	Referral Q ID:	
Date of Birth:	8/17/1956	Age:	
Service Location:	CMC - LAX Chatsworth	Injury Date:	5/17/2022
Claim Number:		Employer:	Ryder #8101
Diagnosis:	S86.911A	Dictated By:	Kavita Sinha, MD
	STRAIN OF UNSP MUSC/TEND AT LOWER LEG LEVEL, RIGHT LEG, INIT-S86.911A		

Notes:

clarification and/or ask additional questions regarding the proposed treatment(s).
 Patient was instructed to keep their scheduled appointments for follow-up and/or return to Concentra.

Activity Status and Restrictions**Treatment Status:**

Returning for follow-up: two days

Anticipated date of MMI: TBD

Activity Status

Return to modified work/activity today.

Work Duration

Patient may work their entire shift.

Restrictions: KEY - Occasionally = up to 3 hrs/day, Frequently = up to 6 hrs/day,

Constantly = up to 8 hours or greater per day

May not drive company vehicle due to functional limitations - can't get into cab

100% Sit down job only

Signatures

Electronically signed by : Kavita Sinha, M.D.; May 17 2022 1:25PM PST -
 Author

*Kavita Sinha, MD***Documented By: Kavita Sinha, MD****Documented On: 5/17/2022 1:25 PM**

Last Update: 05/17/2022 13:25:23

Last Updated By:

Transcription Printed Date: 05/17/2022

r_transcription Page 8 of 8

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Form Revision Date: 11/17/2009

EXHIBIT D

CMC-Chatsworth

9700 De Soto Avenue Chatsworth, CA 91311

Service Date: 05/17/2022

Claim Number:

Phone: 818-882-8100

Fax: 818-700-8255

Case Date: 05/17/2022

Work Activity Status Report

Patient: Humberto Perez

Last 4 Digits of SSN: 1691

Date of Birth: 08/17/1956

Address: 3208 Bluebird Cir SIMI VALLEY, CA 93063

Employer Location: Ryder #8101

Contact: Valarie Salazar

Address: 10641 Almond Ave Fontana, CA 92337-7154

Role: Human Resources

Home: (805) 298-2622 (H)

Phone: 909-356-8555

Work:

Authorized by: Josefina Carrillo

Fax: 909-355-8873

THIS VISIT

Visit Type: Initial

Time In: 12:33:00 PM CST

Time Out: 01:27:19 PM CST

Treating Clinician: Kavita Sinha, M.D.

Diagnoses:

Knee strain, right, initial encounter (S86.911A)

Left ankle strain, initial encounter (S96.912A)

Achilles tendon sprain, left, sequela (S86.012S)

Medications:

☒ Dispensed prescription medication☐ Dispensed over-the-counter medication☐ Medication(s) prescribed

PATIENT STATUS

Employer Notice: The prescribed activity recommendations are suggested guidelines to assist in the patient's treatment and rehabilitation. Your employee has been informed that the activity prescription is expected to be followed at work and away from work.

Treatment Status:

Returning for follow-up: two days

Anticipated MMI Date: TBD

Work Status:

Return to modified work/activity today

Patient may work their entire shift

Activity Prescription:

Key: **Occasionally** = up to 3 hrs/day; **Frequently** = up to 6 hrs/day; **Constantly** = up to 8 hours or greater per day

May not drive company vehicle due to functional limitations - can't get into cab

Additional Restrictions and Limitations: 100% Sit down job only\par

Based on the Department of Labor definitions

NEXT VISIT(S)

Visit Date and Time:

Visit Type:

Clinician:

Patient Notice: It is essential to your recovery that you keep your scheduled appointments, but should you need to reschedule or cancel, please contact the clinic. Thank you for your cooperation.

05/19/2022 12:30 PM

Medical	Therapy	Specialist
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Kavita Sinha, MD

EXHIBIT E



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

June 22, 2022

Greg Freeburg
107 South Fair Oaks Avenue, 321
Pasadena, California 91105

RE: **Notice to Complainant's Attorney**
DFEH Matter Number: 202206-17371622
Right to Sue: Perez / Ryder Transportation Solutions, LLC

Dear Greg Freeburg:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
 (800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

June 22, 2022

RE: Notice of Filing of Discrimination Complaint
 DFEH Matter Number: 202206-17371622
 Right to Sue: Perez / Ryder Transportation Solutions, LLC

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for DFEH's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. You may contact DFEH's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,



STATE OF CALIFORNIA | Business, Consumer Services and Housing Agency

GAVIN NEWSOM, GOVERNOR

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

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(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
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Department of Fair Employment and Housing

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

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<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

June 22, 2022

Humberto Perez
 3208 Bluebird Circle
 Simi Valley, CA 93063

RE: Notice of Case Closure and Right to Sue
 DFEH Matter Number: 202206-17371622
 Right to Sue: Perez / Ryder Transportation Solutions, LLC

Dear Humberto Perez:

This letter informs you that the above-referenced complaint filed with the Department of Fair Employment and Housing (DFEH) has been closed effective June 22, 2022 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for DFEH's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. Contact DFEH's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

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<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Humberto Perez

DFEH No. 202206-17371622

Complainant,

vs.

Ryder Transportation Solutions, LLC
11690 N.W. 105th Street
Miami, FL 33178

Respondents

1. Respondent Ryder Transportation Solutions, LLC is an employer subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant Humberto Perez, resides in the City of Simi Valley, State of CA.

3. Complainant alleges that on or about May 31, 2022, respondent took the following adverse actions:

Complainant was discriminated against because of complainant's disability (physical or mental) and as a result of the discrimination was terminated, denied any employment benefit or privilege, denied reasonable accommodation for a disability, other, denied work opportunities or assignments.

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment, requested or used a disability-related accommodation and as a result was terminated, denied any employment benefit or privilege, denied reasonable accommodation for a disability, other, denied work opportunities or assignments.

Additional Complaint Details: Humberto Perez was employed by Ryder Transportation Solutions, LLC as a driver from September 2018 until his unlawful termination on May 31,

2022. During his employment Humberto Perez was subjected to disability discrimination, failure to reasonably accommodate, failure to engage in the good faith interactive process, retaliation in violation of FEHA, and wrongful termination. During his employment, Ryder Transportation Solutions, LLC failed to prevent the discrimination and retaliation.

1 VERIFICATION

2 I, **Gregory S. Freeburg**, am the **Attorney** in the above-entitled complaint. I have read
3 the foregoing complaint and know the contents thereof. The matters alleged are
4 based on information and belief, which I believe to be true.

5 On June 22, 2022, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Pasadena, CA**
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27 *Complaint – DFEH No. 202206-17371622*

28 Date Filed: June 22, 2022